

Senate Study Bill 1128

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the procedures and duties of the judicial
2 branch, making an appropriation to the enhanced court
3 collections fund, and providing for fees.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 1241DP 81
6 jm/pj/5

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1 1 Section 1. Section 602.1304, subsection 2, paragraph a,
1 2 Code 2005, is amended to read as follows:
1 3 a. The enhanced court collections fund is created in the
1 4 state treasury under the authority of the supreme court. The
1 5 fund shall be separate from the general fund of the state and
1 6 the balance in the fund shall not be considered part of the
1 7 balance of the general fund of the state. Notwithstanding
1 8 section 8.33, moneys in the fund shall not revert to the
1 9 general fund, unless and to the extent the total amount of
1 10 moneys deposited into the fund in a fiscal year would exceed
1 11 the maximum annual deposit amount established for the
1 12 collections fund by the general assembly. The initial maximum
1 13 annual deposit amount for a fiscal year is ~~four~~ six million
1 14 dollars. Notwithstanding section 12C.7, subsection 2,
1 15 interest or earnings on moneys in the collections fund shall
1 16 remain in the collections fund and any interest and earnings
1 17 shall be in addition to the maximum annual deposit amount.
1 18 Sec. 2. NEW SECTION. 602.8102A NOTICES RETURNED FOR
1 19 UNKNOWN ADDRESS == RESENDING.
1 20 Notwithstanding any other provision of the Code to the
1 21 contrary, if the clerk of the district court sends a mailing
1 22 or notice to a person or party and the notice or mailing is
1 23 returned to the clerk of the district court because the
1 24 address is unknown, the clerk is not required to send a
1 25 subsequent notice or mailing unless the clerk receives updated
1 26 address information. This section does not apply to notices
1 27 for a hearing, or judgments, or other notices or mailings that
1 28 would be considered a violation of the due process rights of
1 29 the person or party if the notice or mailing were not
1 30 received.
1 31 Sec. 3. Section 602.8105, subsection 2, Code 2005, is
1 32 amended to read as follows:
1 33 2. The clerk of the district court shall collect the
1 34 following fees for miscellaneous services:
1 35 a. For filing, entering, and endorsing a mechanic's lien,
2 1 twenty dollars, and if a suit is brought, the fee is taxable
2 2 as other costs in the action.
2 3 b. For filing and entering an agricultural supply dealer's
2 4 lien and any other statutory lien, twenty dollars.
2 5 c. For a certificate and seal, ten dollars. However,
2 6 there shall be no charge for a certificate and seal to an
2 7 application to procure a pension, bounty, or back pay for a
2 8 member of the armed services or other person.
2 9 d. For certifying a change in title of real estate, twenty
2 10 dollars.
2 11 e. For filing a praecipe to issue execution under chapter
2 12 626, twenty-five dollars.
2 13 f. For filing a praecipe to issue execution under chapter
2 14 654, fifty dollars.
2 15 g. For filing a confession of judgment under chapter 676,
2 16 one hundred dollars.

2 17 e. h. Other fees provided by law.
2 18 Sec. 4. Section 901.4, Code 2005, is amended to read as

2 19 follows:

2 20 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL ==
2 21 DISTRIBUTION.

2 22 The presentence investigation report is confidential and
2 23 the court shall provide safeguards to ensure its
2 24 confidentiality, including but not limited to sealing the
2 25 report, which may be opened only by further court order. At
2 26 least three days prior to the date set for sentencing, the
2 27 court shall ~~serve~~ send a copy of all of the presentence
2 28 investigation report ~~upon~~ by ordinary or electronic mail, to
2 29 the defendant's attorney and the attorney for the state, and
2 30 the report shall remain confidential except upon court order.
2 31 However, the court may conceal the identity of the person who
2 32 provided confidential information. The report of a medical
2 33 examination or psychological or psychiatric evaluation shall
2 34 be made available to the attorney for the state and to the
2 35 defendant upon request. The reports are part of the record
3 1 but shall be sealed and opened only on order of the court. If
3 2 the defendant is committed to the custody of the Iowa
3 3 department of corrections and is not a class "A" felon, a copy
3 4 of the presentence investigation report shall be forwarded by
3 5 ordinary or electronic mail to the director with the order of
3 6 commitment by the clerk of the district court and to the board
3 7 of parole at the time of commitment. Pursuant to section
3 8 904.602, the presentence investigation report may also be
3 9 released by ordinary or electronic mail by the department of
3 10 corrections or a judicial district department of correctional
3 11 services to another jurisdiction for the purpose of providing
3 12 interstate probation and parole compact or interstate compact
3 13 for adult offender supervision services or evaluations, or to
3 14 a substance abuse or mental health services provider when
3 15 referring a defendant for services. The defendant or the
3 16 defendant's attorney may file with the presentence
3 17 investigation report, a denial or refutation of the
3 18 allegations, or both, contained in the report. The denial or
3 19 refutation shall be included in the report. If the person is
3 20 sentenced for an offense which requires registration under
3 21 chapter 692A, the court shall release the report by ordinary
3 22 or electronic mail to the department.

3 23 EXPLANATION

3 24 This bill relates to procedures and duties of the judicial
3 25 branch.

3 26 The bill amends Code section 602.1304 by increasing the
3 27 maximum annual deposit into the enhanced court collections
3 28 fund from \$4 million to \$6 million. Certain moneys collected
3 29 by the judicial branch are deposited into the fund and the
3 30 moneys are used for the Iowa court information system, for
3 31 records management equipment, services, projects, and for
3 32 other court technological improvements.

3 33 The bill creates new Code section 602.8102A relating to the
3 34 clerk of the district court sending a mailing or notice. The
3 35 bill provides that if the clerk of the district court sends a
4 1 mailing or notice to a person or party and the notice or
4 2 mailing is returned to the clerk of the district court because
4 3 the address is unknown, the clerk is not required to send a
4 4 subsequent mailing or notice, unless the clerk receives
4 5 updated address information. However, this Code section does
4 6 not apply to notices for a hearing, or judgments, or other
4 7 mailings or notices that would be considered a violation of
4 8 the due process rights of the person or party if the mailing
4 9 or notice were not received.

4 10 The amendment to Code section 602.8105 relates to the
4 11 collection of fees by the clerk of the district court. The
4 12 bill establishes a \$25 fee for filing a praecipe to issue
4 13 execution under Code chapter 626 (enforcement of a judgment);
4 14 a \$50 fee for filing a praecipe to issue execution under Code
4 15 chapter 654 (foreclosure of real estate mortgages); and a \$100
4 16 fee for filing a confession of judgment under Code chapter 676
4 17 (judgment by confession). A "praecipe" means an order
4 18 commanding the debtor to do the thing required by the order.
4 19 A "judgment by confession" means an act by the debtor
4 20 permitting a judgment to be entered against the debtor.

4 21 The amendment to Code section 901.4 permits the court to
4 22 send a copy of a presentence investigation report to the
4 23 defense attorney and county attorney by ordinary mail or
4 24 electronic mail. The presentence investigation report
4 25 contains a detailed personal history of a criminal defendant.
4 26 Current law does not permit the court to send a copy of the
4 27 report by electronic mail to the defense attorney or county

4 28 attorney.
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4 30 jm:nh/pj/5.1